

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 11-3237 (DSD/JSM)

Jasmine R. Robeson,

Petitioner,

v.

ORDER

Nicole English,
Warden F.C.I.-Warden,

Respondent.

This matter is before the court upon the pro se objection of petitioner Jasmine R. Robeson to the November 11, 2011, report and recommendation of Magistrate Judge Janie S. Mayeron. The magistrate judge recommends denial of the petition and summary dismissal of the action. Robeson timely objects, arguing that after November 1, 2011, "the [Fair Sentencing Act of 2010] FSA is (now) retroactive" and that the magistrate judge improperly relied on cases decided before November 1, 2011. Pet'r's Obj. 1.

The court reviews the report and recommendation of the magistrate judge de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3); D. Minn. LR 72.2(b). After a de novo review, the court finds that the report and recommendation of the magistrate judge is well reasoned and correctly disposes of the petition. On November 1, 2011, amendments to the advisory Guidelines became retroactive, but the FSA does not apply retroactively. See United States v. Bones, 2011 WL 5838671, at *1 (8th Cir. Nov. 21, 2011) (per curiam) ("[O]ur Court has 'definitively determined' that the

FSA is not retroactive." (citations omitted); accord United States v. Bullard, 645 F.3d 237, 249 (4th Cir. 2011).

Accordingly, **IT IS HEREBY ORDERED** that:

1. Petitioners objections [ECF No. 5] are overruled;
2. The report and recommendation of the magistrate judge [ECF No. 4] is adopted in its entirety;
3. The application for habeas corpus relief under 28 U.S.C. § 2241 (ECF No. 1) is denied;
3. The application to proceed in forma pauperis [ECF No. 3] is denied; and
4. This action is summarily dismissed with prejudice.

LET JUDGEMENT BE ENTERED ACCORDINGLY.

Dated: November 28, 2011

s/David S. Doty
David S. Doty, Judge
United States District Court